

conflict of interest. At a minimum, such measures should insure:

(1) That feedlot customers are fully advised of the common ties between the feedlot and the packer, and of their rights and options with respect to the marketing of their livestock;

(2) That all feedlot customers are treated equally by the packer/custom feedlot in connection with the marketing of fed livestock; and

(3) That marketing decisions rest solely with the feedlot customer unless otherwise expressly agreed.

(c) Packer ownership or operation of custom feedlots may also give rise to competitive problems in some situations. Packers contemplating or engaging in the business of operating a custom feedlot should carefully review their operations to assure that no restriction of competition exists or is likely to occur.

(d) The Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs) does not consider the existence of packer/custom feedlot relationships, by itself, to constitute a violation of the Act. In the event it appears that a packer/custom feedlot arrangement gives rise to a violation of the Act, an investigation will be made on a case-by-case basis, and, where warranted, appropriate action will be taken.

(Approved by the Office of Management and Budget under control number 0580-0015)

(7 U.S.C. 203, 204, 207, 217a, 222 and 228)

[49 FR 33004, Aug. 20, 1984, as amended at 68 FR 75388, Dec. 31, 2003]

§ 203.19 Statement with respect to packers engaging in the business of livestock dealers or buying agencies.

(a) In its administration of the Packers and Stockyards Act, the Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs) has sought to prevent conflicts of interest and to maintain open and fair competition in the livestock and meat packing industries. The ownership or operation of livestock dealers or buying agencies by packers, under some circumstances, may result in violations of the Packers and Stockyards Act.

(b) Traditionally, livestock dealers and buying agencies purchase livestock for resale or to fill orders for farmers, ranchers, producers, other livestock firms and packers. When a livestock dealer or buying agency is owned or operated by a packer, and when such packer is also buying livestock for its own operational requirements, there is a potential conflict of interest. Furthermore, the purchase and sale of livestock by meat packers may result in control of markets and prices which could adversely affect both livestock producers, competing packers, and consumers.

(c) Arrangements between packers and dealers or buying agencies which do not normally create a conflict of interest or result in a restraint of competition include:

(1) Operations utilizing different species or classes of livestock; (2) operations where the business activities are widely separated geographically; and (3) operations where tie-in purchases or sales are not involved. Packers contemplating engaging in the business of a livestock dealer or a buying agency are encouraged to consult with the Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs) prior to the commencement of such activities.

(d) In the event a packer/dealer or a packer/buying agency arrangement appears to give rise to a violation of the Act, an investigation will be made on a case-by-case basis and, where warranted, appropriate action will be taken.

(Approved by the Office of Management and Budget under control number 0580-0015)

(7 U.S.C. 228, 228b, 222, 15 U.S.C. 46)

[49 FR 32845, Aug. 17, 1984; 54 FR 26349, June 23, 1989, as amended at 68 FR 75388, Dec. 31, 2003]

PART 204—ORGANIZATION AND FUNCTIONS

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AUTHORITY: 5 U.S.C. 552.

SOURCE: 49 FR 46528, Nov. 27, 1984, unless otherwise noted.

PUBLIC INFORMATION

§ 204.1 Introduction.

The Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs) hereby describes its central and field organization; indicates the established places at which, and methods whereby, the public may secure information; directs attention to the general course and method by which its functions are channeled; and sets forth the procedures governing the availability of opinions, orders, and other records in the files of said Administration.

§ 204.2 Organization.

(a) The Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs) consists of a headquarters office located in the South Building of the U.S. Department of Agriculture in Washington, DC, and 12 regional offices. The Washington headquarters office is organized to include the Office of the Administrator and two Divisions, the Packer and Poultry Division and the Livestock Marketing Division.

(b) *Office of the Administrator.* This office has overall responsibility for administering the provisions of the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. 181 *et seq.*), for enforcement of the Truth-in-Lending Act (15 U.S.C. 1601–1665) with respect to any activities subject to the Packers and Stockyards Act and for executing assigned civil defense and defense mobilization activities. These responsibilities include formulation of current and long-range programs relating to assigned functions; execution of the policies and programs administered by the Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs); review and evaluation of program operations for uniform, effective, and efficient administration of the Packers and Stockyards Act; and maintenance of relations and commu-

nications with producer and industry groups.

(1) *Administrator.* The Secretary of Agriculture has delegated responsibility for administration of the Packers and Stockyards Act to the Administrator who is responsible for the general direction and supervision of programs and activities assigned to the Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs) except such activities as are reserved to the Judicial Officer (32 FR 7468). The Administrator reports to the Assistant Secretary for Marketing and Inspection Services.

(2) *Deputy Administrator.* The Deputy Administrator assists the Administrator in the overall responsibility for the general direction and supervision of programs and activities assigned to the Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs).

(3) *Assistant to the Administrator.* The Assistant to the Administrator participates with the Administrator and Deputy Administrator in the development and analysis of policies and programs, and directs the management support services and related activities of the Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs).

(4) *Director, Industry Analysis Staff.* The Director of the Industry Analysis Staff participates with the Administrator and Deputy Administrator in the development and analysis of policies and programs and directs economic studies of structure and performance of the livestock, meat, and poultry marketing, processing, and wholesaling industries. The results of these studies are used to provide economic advice to the Administrator in developing overall policy on antitrust matters and effects of practices or impediments in the marketing system. The Director works closely with the Directors of the Packer and Poultry and the Livestock Marketing Divisions in connection with investigations to provide economic advice and expert testimony in trials and administrative hearings. The Director also coordinates activities and works closely with the Federal Trade Commission and Justice Department in studying the effects of

mergers and antitrust matters in the livestock, meat packing and poultry industries.

(c) *Packer and Poultry Division.* This Division carries out the enforcement of the provisions of the Packers and Stockyards Act relating to packers and live poultry dealers and handlers. The responsibilities and functions include: Determination of applicability of the provisions of the Act to individual packer and poultry operations; surveillance of these operations; investigation of complaints; initiation of formal proceedings, when warranted, to correct illegal practices; and maintenance of working relationships with the meat packer and poultry industries. These responsibilities and functions are accomplished with programs and activities directed through the Livestock Procurement Branch, Meat Merchandising Branch, and Poultry Branch. The Division Director participates with the Administrator and Deputy Administrator in the development and evaluation of policies and programs to fulfill the Agency's responsibilities and functions. The Director implements and directs the policies and programs pertaining to the Packer and Poultry Division through the three branches.

(d) *Livestock Marketing Division.* This Division enforces those provisions of the Packers and Stockyards Act relating to stockyard owners, market agencies, and dealers. The responsibilities and functions include: determination of the applicability of the jurisdiction, bonding, financial and trade practice provisions of the Act to individual operations; supervision of the installation, maintenance, and testing of scales; surveillance and investigations of stockyards, market agencies, and dealers; initiation of formal proceedings, when warranted, to correct illegal practices; and maintenance of working relationships with producer and industry groups. These responsibilities and functions are accomplished with programs and activities directed through the Financial Protection Branch, Marketing Practices Branch, and Scales and Weighing Branch. The Division Director participates with the Administrator and Deputy Administrator in the development and evaluation of policies and programs to fulfill

the Agency's responsibilities and functions. The Director implements and directs the policies and programs pertaining to the Livestock Marketing Division through the three branches.

(e) *Field Services.* (1) The field services of the Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs) is divided into 12 regional offices. These offices are responsible for supervision of operations of stockyard companies, market agencies, dealers, packers and live poultry dealers and handlers to assure compliance with the Act. They formulate recommendations relating to the enforcement of the Act; receive and investigate complaints, including reparation complaints; audit books, records, and reports of persons subject to the Act; conduct investigations to determine the existence of and develop evidence of unfair, deceptive, and discriminatory trade practices; prepare investigative reports and recommend corrective action; assist in the prosecution of cases; review applications for registration and rate changes for accuracy and compliance; and maintain relationships with producers, the trade, States and other groups interested in the welfare of the livestock, meat packing, and poultry industries concerning enforcement of the Act.

(2) The addresses and the States covered by these offices, which are under regional supervisors, are as follows:

Atlanta—Room 338, 1720 Peachtree Street, NW., Atlanta, Georgia 30309 (Alabama, Florida, Georgia, South Carolina)
 Bedford—Turnpike Road, Box 101E, Bedford, Virginia 25423 (District of Columbia, Delaware, Maryland, North Carolina, Virginia, West Virginia)
 Denver—208 Livestock Exchange Building, Denver, Colorado 80216 (Colorado, Montana, New Mexico, Utah, Wyoming)
 Fort Worth—Room 8A36, Federal Building, 819 Taylor Street, Fort Worth, Texas 76102 (Oklahoma, Texas)
 Indianapolis—Room 434 Federal Building and U.S. Courthouse, 46 E. Ohio Street, Indianapolis, Indiana 46204 (Illinois, Indiana, Kentucky, Michigan, Ohio)
 Kansas City—828 Livestock Exchange Building, Kansas City, Missouri 64102 (Kansas, Missouri)
 Lawndale—15000 Aviation Boulevard, Room 2W6, P.O. Box 6102, Lawndale, California 90261 (Arizona, California, Hawaii, Nevada)
 Memphis—Room 459, Federal Building, 167 Main Street, Memphis, Tennessee 38103

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(Arkansas, Louisiana, Mississippi, Tennessee)
North Brunswick—825 Georges Road, Room 303, North Brunswick, New Jersey 08902 (Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont)
Omaha—909 Livestock Exchange Building, Omaha, Nebraska 68107 (Iowa, Nebraska)
Portland—9370 S.W. Greenburg Road, Suite E, Portland, Oregon 97223 (Alaska, Idaho, Oregon, Washington)
South St. Paul—208 Post Office Building, Box 8, South St. Paul, Minnesota 55075 (Minnesota, North Dakota, South Dakota, Wisconsin)

§ 204.3 Delegation of authority.

(a) *Deputy Administrator.* Under the direction of the Administrator, the Deputy Administrator is hereby delegated authority to perform all the duties and exercise all the functions and powers which are now or which may hereafter be, vested in the Administrator (including the power of redelegation).

(b) *Division Directors.* The Directors of the Industry Analysis Staff, the Livestock Marketing Division, and the Packer and Poultry Division, under administrative and technical direction of the Administrator and the Deputy Administrator, are hereby individually delegated authority, in connection with the respective functions assigned to each of said organizational units in § 204.2 to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be, vested in the Administrator (including the power of redelegation) except such authority as is reserved to the Administrator and Deputy Administrator under paragraph (g) of this section.

(c) *Regional Supervisors.* (1) The Regional Supervisors of the Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs) are hereby individually delegated authority under the provisions of section 402 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 222), to issue special orders pursuant to the provisions of section 6(b) of the Federal Trade Commission Act (15 U.S.C. 46(b)), and, with respect thereto, to issue notices of default provided for in section 10 of the Federal Trade Commission Act (15 U.S.C. 50); to notify

persons deemed to be subject to the bonding requirements in 7 U.S.C. 204 of their obligations to file bonds or trust fund agreements in conformity with regulations issued under this chapter including authority to determine that a bond is inadequate under § 201.30(f) of this chapter and to give notice to the person of the amount of bond required; to notify persons deemed to be subject to the reporting requirements in § 201.97 of this chapter of their obligations to file annual reports; and to grant reasonable requests for extensions of 30 days or less for the filing of such annual reports.

(2) The Regional Supervisors are hereby individually delegated authority, when there is reason to believe that there is a question as to the true ownership of livestock sold by any person, to disclose information relating to such questionable ownership to any interested person.

(d) *Investigative employees.* All employees of the Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs) assigned to or responsible for investigations in the enforcement of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), or the enforcement of the Truth-in-Lending Act (15 U.S.C. 1601–1665), with respect to any activities subject to the Packers and Stockyards Act, are hereby individually delegated authority under the Act of January 31, 1925, 43 Stat. 803, 7 U.S.C. 2217, to administer to or take from any person an oath, affirmation, or affidavit whenever such oath, affirmation, or affidavit is for use in any prosecution or proceeding under or in the enforcement of the aforementioned Acts. This authority may not be redelegated and will automatically expire upon the termination of the employment of such employees with the Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs).

(e) *Concurrent authority.* No delegation prescribed herein shall preclude the Administrator or Deputy Administrator from exercising any of the powers or functions or from performing any of the duties conferred upon them, and any such delegation is subject at all times to withdrawal or amendment

by the Administrator or Deputy Administrator or the Division Director responsible for the function involved.

(f) *Prior delegations.* All prior delegations and redelegations of authority relating to any function or activity covered by these delegations of authority shall remain in effect except as they are inconsistent herewith or are hereafter amended or revoked. Nothing herein shall affect the validity of any action heretofore taken under prior delegations or redelegations of authority or assignment of functions.

(g) *Reservations of authority.* It is hereby reserved to the Administrator and Deputy Administrator authority with respect to proposed rulemaking and final action for the issuance of regulations (§201.1 of this chapter *et seq.*), rules of practice governing proceedings (§202.1 of this chapter *et seq.*), and statements of general policy (§203.1 of this chapter *et seq.*), and the issuance of moving papers as prescribed in the rules of practice governing formal adjudicatory administrative proceedings instituted by the Secretary (7 CFR part 1, subpart H, §1.133); and the authority to make final determinations in accordance with the provisions of 7 CFR part 1, subpart A, as to the availability of official records and information made or obtained in connection with the administration of the Packers and Stockyards Act which are considered exempt from disclosure under §204.7 of this part. Further, authority to issue subpoenas (7 U.S.C. 222 and 15 U.S.C. 49) is reserved to the Administrator and Deputy Administrator.

§204.4 Public inspection and copying.

(a) Facilities for public inspection and copying of the indexes and materials required to be made available under 7 CFR 1.2(a) will be provided by the Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs) during normal hours of operation. Requests for this information should be made to the Freedom of Information Act Officer, Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs, United States Department of Agriculture, Washington, DC 20250.

(b) Copies of such materials may be obtained in person or by mail. Applicable fees for copies will be charged in accordance with the regulations prescribed by the Director of Information, Office of Governmental and Public Affairs, USDA.

§204.5 Indexes.

Pursuant to the regulations in 7 CFR 1.4(b), the Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs) will maintain and make available for public inspection and copying current indexes of all material required to be made available in 7 CFR 1.2(a). Notice is hereby given that publication of these indexes is unnecessary and impractical, since the material is voluminous and does not change often enough to justify the expense of publication.

§204.6 Requests for records.

(a) Requests for records under 5 U.S.C. 552(a)(3) shall be made in accordance with 7 CFR 1.3(a). Authority to make determinations regarding initial requests in accordance with 7 CFR 1.4(c) is delegated to the Freedom of Information Act Officer of the Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs). Requests should be submitted to the FOIA Officer at the following address: Freedom of Information Act Officer (FOIA Request), Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs), United States Department of Agriculture, Washington, DC 20250.

(b) The request shall identify each record with reasonable specificity as prescribed in 7 CFR 1.3.

(c) The FOIA Officer is authorized to receive requests and to exercise the authority to (1) make determination to grant requests or deny initial requests; (2) extend the administrative deadline; (3) make discretionary release of exempt records; and (4) make determinations regarding charges pursuant to the fee schedule.

§204.7 Appeals.

Any person whose request under §204.6 of this part is denied shall have

the right to appeal such denial in accordance with 7 CFR 1.3(e). Appeals shall be addressed to the Administrator, Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs), U.S. Department of Agriculture, Washington, DC 20250.

PART 205—CLEAR TITLE—PROTECTION FOR PURCHASERS OF FARM PRODUCTS

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AUTHORITY: 7 U.S.C. 1631; 7 CFR 2.22 and 2.81.

SOURCE: 51 FR 29451, Aug. 18, 1986, unless otherwise noted.

DEFINITIONS

§ 205.1 Definitions.

Terms defined in section 1324 of the Food Security Act of 1985, Pub. L. 99–198, 99 Stat. 1535, 7 U.S.C. 1631, shall mean the same in this part as therein. In addition, except as otherwise specified, as used in this part:

Approved Unique Identifier means a number, combination of numbers and letters, or other identifier selected by the Secretary of State using a selection system or method approved by the Secretary of Agriculture.

EFS means *effective financing statement* as defined in subsection (c)(4);

Master list means the accumulation of data in paper, electronic, or other form, described in subsection (c)(2)(C);

Portion means portion of the master list distributed to registrants under subsection (c)(2)(E);

Registrant means any buyer of farm products, commission merchant, or selling agent, as referred to in the Section, registered with a system under subsection (c)(2)(D);

The Secretary means the Secretary of Agriculture of the United States;

The Section means section 1324 of the above-cited Act, and “subsection” means a subsection of that Section;

System means *central filing system* as defined in subsection (c)(2);

System operator means Secretary of State or other person designated by a State to operate a system;

UCC or *Uniform Commercial Code* means the Uniform Commercial Code prepared under the joint sponsorship of the American Law Institute and the National Conference of Commissioners on Uniform State Laws, and in effect in most States of the United States at the time of enactment of Pub. L. 99–198.

[51 FR 29451, Aug. 18, 1986, as amended at 71 FR 56342, Sept. 27, 2006]

REGULATIONS

§ 205.101 Certification—request and processing.

(a) To obtain certification of a system, a written request for certification must be filed together with such documents as show that the system complies with the Section. If such material is voluminous, a summary, table of